Alberta Energy Regulator

Directive 076

Release date: April 4, 2016
Effective date: April 4, 2016
Replaces previous edition issued August 28, 2012

Operator Declaration Regarding Measurement and Reporting Requirements

The Alberta Energy Regulator has approved this directive on April 4, 2016.

<original signed by>

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1 Introduction

1.1 Purpose

This directive applies to all operators subject to Alberta Energy Regulator (AER) measurement and reporting requirements and reporting to the Petroleum Registry of Alberta (Petrinex) and pertains to conventional oil, heavy oil, crude bitumen, and natural gas facilities. It does not apply to mineable oil sands.

It sets out requirements according to which operators are to declare the degree to which they have infrastructure in place to ensure compliance with AER measurement and reporting requirements. It does not include instructions on how the volumes are to be measured or reported to the AER; those topics are included in such other AER documents as *Directive 017: Measurement Requirements for Upstream Oil and Gas Operations* and *Directive 007: Volumetric and Infrastructure Requirements*.

If requirements in previously issued AER documents (directives, interim directives, informational letters, guides, etc.) conflict with the requirements in this directive, the requirements in this directive supersede the prior requirements.

1.2 What's New in This Edition

In this edition of *Directive 076*, all references to *Directive 019: Compliance Assurance*, which has been rescinded, and related information have been removed.

1.3 AER Requirements

Following AER requirements is mandatory for the responsible duty holder as specified in legislation (e.g., licensee, operator, company, applicant, approval holder, or permit holder). The term "must" indicates a requirement, while terms such as "recommends" and "expects" indicate a recommended practice.

Each AER requirement is numbered.

Information on compliance and enforcement can be found on the AER website.

1.4 Enhanced Production Audit Program

This directive implements the AER's Enhanced Production Audit Program (EPAP), designed to

- raise the level of assurance regarding operators' compliance with AER measurement and reporting requirements, and
- raise the level of compliance with AER measurement and reporting requirements.

The AER Production Audit Team

- administers EPAP and this directive,
- monitors and analyzes data submitted either to Petrinex or directly to the AER,
- regularly provides reports on the results of this analysis to each operator in support of continuous improvement in the design and evaluation of their controls,
- escalates EPAP reporting requirements when required to resolve outstanding issues, and
- conducts controls-based or substantive audits when circumstances warrant.

Through EPAP, the AER will reduce its reliance on substantive audits in favour of relying on the effectiveness of every operator's controls to improve compliance with AER measurement and reporting requirements. Operators are expected to design, operate, and evaluate controls that ensure compliance with AER measurement and reporting requirements and to maintain sufficient documentation to support their design and evaluation of controls.

This directive is supplemented by the *EPAP Operator's Handbook*, available on the AER website, www.aer.ca, which has suggestions and recommendations for implementing the requirements in the directive. While enforcement action is not applicable to recommended best practices or guidelines, operators should consider these as well.

The AER regulates measurement and reporting based on section 14 of the *Oil and Gas Conservation Rules* of the *Oil and Gas Conservation Act*. The AER may direct an operator in writing to implement changes to improve the design or operation of controls or evaluation processes, and this direction will become a condition of operation for that operator.

2 Declaration Regarding AER Measurement and Reporting Requirements

EPAP's process requires that each operator's senior executives submit an annual declaration attesting to the state of their controls designed to ensure compliance with AER measurement and reporting requirements. The declaration includes reporting on the existence of controls and the results of the evaluation of controls.

The wording of the declaration, with descriptions of the attachments, is in appendix 1.

1) **Annual declaration**: An operator must submit a Declaration Regarding AER Measurement and Reporting Requirements to the AER every year.

2) **Period covered by a declaration**: An operator's declaration must cover the 12 calendar months ending in the operator's declaration month and must be submitted to the AER no earlier than the first day of the second month following the declaration period and no later than the last day of the second month following the declaration period.

The AER will permit new operators some latitude to choose a declaration month that is most convenient for the operator. The AER Production Audit Team will honour a request for a preferred declaration month if the request is received within the first year following the first volumetric data submission to Petrinex.

In the absence of a request for a preferred declaration month, the AER will assign a month for the operator. Once the operator's declaration month has been chosen, whether by the operator or by the AER, it can be changed only by request in writing to the AER. The AER reserves the right to approve or deny such a request.

3) **First declaration**: An operator must submit its first declaration within two years of its first volumetric data submission to Petrinex.

Requirement 3 applies to new operators only because *Directive 076* has been in effect since January 4, 2010, and the majority of operators will have already submitted their first declaration. The AER encourages new operators to develop and test the declaration processes early.

If an operator merges with or acquires another operator, declarations will continue to be submitted to the AER following the declaration period associated with the surviving Business Associate ID on Petrinex. Changes to the declaration month may be made by request in writing to the AER.

4) **Form of declaration**: An operator must submit its annual declaration electronically using the AER's EPAP system.

A declaration in any other form is not considered a valid declaration.

The attachments to a declaration are generated automatically based on data entered into the EPAP system by the operator for the declaration period.

The declaration is to be reviewed and approved by senior executives with provincial authority for field operations and production accounting. See the *EPAP Operator's Handbook* for further interpretation.

5) **Declaring executives**: An operator must submit its annual declaration on behalf of and in the name of one or more senior executives.

6) **Retention and provision of declarations**: As proof of electronic submission of a declaration, the operator must retain a signed paper copy of the declaration for a period of not less than three years and must provide this copy on request to the AER.

Declarations cover all facilities operated by an operator at the end of the declaration period regardless of their size or when they were acquired. The AER recognizes that controls for a particular requirement may not be the same at all facilities and that newly acquired facilities may

not yet be integrated into an operator's normal operations. Nonetheless, the operator is responsible for compliance with AER requirements at all facilities at all times.

7) **Scope of declaration**: An operator must consider that the declaration includes all facilities operated by the operator at the end of the declaration period.

As additional evidence of efforts to ensure compliance, an operator's declaration may include evaluation of controls conducted by the operator at facilities that are no longer operated by the operator at the end of the declaration period.

3 Design of Controls

8) **Design of controls over measurement and reporting requirements**: An operator must design, maintain, and operate controls to ensure compliance with applicable AER measurement and reporting requirements.

This directive does not prescribe specific components of controls or their degree of complexity. Operators are to design the components and complexity of controls using judgement, acting reasonably, giving consideration to various factors particular to the operations, including size, nature of business, and complexity. The *EPAP Operator's Handbook* provides suggestions and best practices that may be adopted as appropriate.

It is reasonable to have no controls that ensure compliance with a particular reporting theme and/or requirement at a particular facility if

- that reporting theme or requirement does not apply to that facility, or
- the AER has granted a measurement exemption regarding that requirement at that facility. In this case, the operator must consider the necessity of controls to address the conditions of the associated exemption approval.

9) **Disclosure regarding facilities for which there are no controls**: An operator must declare the facilities for which the operator does not have controls over measurement and reporting requirements and provide an explanation as to why having no controls is appropriate.

10) **Retention and provision of controls documentation**: An operator must maintain up-to-date documentation on controls over measurement and reporting requirements and on the procedures used to evaluate their effectiveness. This documentation must be provided electronically on request to the AER through the AER's EPAP system.

4 Evaluation of Controls

11) **Conducting evaluations of controls**: Every year, an operator must conduct reasonable and adequate evaluations of controls over measurement and reporting requirements. While the coverage of evaluations may vary depending on operator size and business focus, a reasonable effort is required each year.

This directive does not specify how the effectiveness of controls is to be evaluated. The *EPAP Operator's Handbook* contains some guidelines that may be useful in conducting such evaluations.

Operators are to provide the AER with a reasonable level of assurance that they are, in fact, conducting adequate evaluations of controls. The AER does not normally need to know the details of the results obtained every year, but it is to be informed that evaluations are being carried out and that the results are being assessed.

12) **Disclosure regarding evaluations of controls**: An operator must declare the number of facilities where evaluations of controls were conducted during the declaration period, the number of those evaluations where the controls were deemed successful, and the operator's assessment of whether or not the risk of noncompliance with the requirements is addressed.

13) **Retention and provision of results**: An operator must prepare and retain for a period of three years documentation on the processes followed and the results obtained for each instance of evaluation of controls and provide these electronically on request to the AER through the EPAP system.

5 Remediation

14) **Remediation of control deficiencies**: If an operator's evaluation of controls indicates that the risk of noncompliance with a particular requirement is not adequately addressed, the operator must prepare and implement a reasonable remediation plan for each control deficiency.

15) **Investigation and remediation**: If the AER identifies situations that indicate the possibility of noncompliance with one or more measurement and reporting requirements, the operator must investigate and, if necessary, prepare and implement a reasonable remediation plan.

The sending of an e-mail by the AER to the operator constitutes written notice for the purposes of this directive.

16) **Reporting remediation**: If the AER has directed that a remediation plan be prepared and implemented, the plan, including expected and actual completion dates, must be reported electronically by the operator through the AER's EPAP system.

Appendix 1 Declaration Regarding AER Measurement and Reporting Requirements

I/We, <*Name* >, the <*title*> and <*Name* >, the <*title*> on behalf of <*Operator Name*> (the "Operator"), declare the following:

1) This Declaration covers the 12 calendar months ending <*declaration Month and Year*>.
2) I am a/We are senior executive(s) of the Operator with responsibility that includes all of the Operator's Alberta facilities and with the authority to direct resources.
3) I/We directly or through those I/we supervise have a competent understanding of the AER measurement and reporting requirements; I/we recognize my/our responsibility for ensuring compliance with those requirements; and I/we recognize the authority of the AER to make such requirements and enforce compliance with them.
4) I/We have ensured that there are controls within the organization designed to provide a reasonable, though not necessarily absolute, level of assurance over compliance with AER measurement and reporting requirements.
5) The Operator follows a process within its organization to evaluate the effectiveness of controls. The results of the evaluations conducted during this declaration period and conclusions based on these results are fairly portrayed in Attachment A.
6) Where the Operator does not have controls in place to ensure compliance with certain AER requirements, explanations as to why having no controls is appropriate are provided on Attachment B and, where there is insufficient reason for not having controls, the Operator has prepared and is implementing appropriate controls.
7) Where the scope, number, or process of evaluations of controls the Operator has conducted during the declaration period is not sufficient to provide a reasonable level of assurance over the effectiveness of its controls, the Operator has prepared and is implementing changes to its evaluation plans.
8) Where the Operator's evaluations have identified deficiencies in its controls, as documented on Attachment A, the Operator has prepared and is implementing changes to remediate those deficiencies.
9) I/We commit that appropriate resourcing will be provided to execute and measure progress of any remediation plans cited above.

For further information or clarification, please contact <*Name of Person identified as primary contact*>.

The last date for submission of this Declaration is the last day of <*Submission Month and Year*>.

Date signed: _____

<*Signature*>	<*Signature*>
<*Name*> <*Title*>	<*Name*> <*Title*>

Note: Declarations are to be made through the EPAP system. The system will generate the appropriate words for the declaration and the three attachments, described below, based on the data entered by the operator. The example declaration shown above indicates two signing executives; the number that an operator's declaration will show depends on the data entered into the EPAP system by the operator.

Attachments to Declaration

See the *EPAP Operator's Handbook* for explanations and detailed examples of the attachments.

A. Summary of Evaluation of Controls

This attachment will show the following information for each reporting theme identified by the AER as being an appropriate subject for controls and for which the operator has controls:

- The levels (Facility and or Company) at which these controls exist for each item
- Whether or not these controls have been evaluated
- If those controls which have been evaluated are deemed to be effective
- The operator's opinion as to whether these evaluation results indicate that the controls adequately address the risk of noncompliance

B. Measurement and Reporting Requirements Not Addressed by Controls

This attachment will show the reason for there being no controls, for each reporting theme identified by the AER as being an appropriate subject for controls and for which the operator has indicated that there are no controls.

C. Facilities Operated

This attachment will indicate the number of facilities operated by the operator at the end of the declaration period.

Appendix 2 Definitions

For the purpose of this directive, the following definitions are used. For more details, please see the *EPAP Operator's Handbook*.

Business process: A sequence of related, structured tasks that achieve a specific business goal.

Control: A process designed to provide a reasonable level of assurance that the underlying business process ensures compliance with AER measurement and reporting requirements.

Control deficiency: The state that exists when controls do not provide a reasonable level of assurance of compliance with AER measurement and reporting requirements. The reason for the deficiency can exist either in the control or in the underlying business process.

Declaration period: The 12 calendar months that the declaration is to cover, ending with the chosen declaration month.

Declaration month: The last month of the declaration period. The AER Production Audit Team will honour a request for a preferred declaration month if the request is received within the first year following the first volumetric data submission to Petrinex.

Evaluation of controls: A process by which an operator evaluates the effectiveness of the design and operation of a control in addressing the risk of noncompliance. The evaluation of controls may include assessing the underlying business process.

Facility: Any building, structure, installation, equipment, or appurtenance over which the AER has jurisdiction and that is connected to or associated with the recovery, development, production, handling, processing, treatment, or disposal of hydrocarbon-based resources or any associated substances or wastes, including wells. Note that for the purposes of this directive, the definition of facility

- focuses on facilities for which data are reported to Petrinex or the AER, and
- includes wells.

Infrastructure: The environment in the organization established by the senior executives in response to the needs of the organization in addressing AER requirements by

- developing effective organizational structure, procedure manuals, operating instructions, job descriptions, and training materials that define authority and responsibility;
- communicating management's philosophy, codes of conduct, and operating style to all the employees and evidence that employees have confirmed their knowledge and understanding;
- enhancing integrity, ethics, and competence of all the employees;

- managing effectively the internal and external influences that affect the operator's operations; and
- establishing effective human resource policies and procedures for hiring and managing the employees.

Operator: The person or organization who keeps records and submits production reports to Petrinex or the AER for a facility, whether or not that organization is the sole licensee or approval holder for all parts of the facility. "Operator" is synonymous with "Operator of Record" as used at Petrinex. Note that for the purposes of measurement and reporting, the emphasis is on the organization that reports to Petrinex or the AER, not the organization that may control or undertake the day-to-day operations and activities at all or part of a facility.

Measurement and reporting requirements: The term measurement as used in AER directives generally means measurement, accounting, and reporting. While measurement is the determination of a volume, accounting and reporting are integral components of measurement in that after a fluid volume is measured, mathematical procedures (accounting) may have to be employed to arrive at the desired volume to be reported. Notwithstanding this all-encompassing definition, for emphasis, this directive refers to "measurement and reporting," recognizing that separate functions take place in the field and in the office.

Reasonable level of assurance: Level of assurance is the degree of confidence one has in a statement. A reasonable level of assurance does not mean absolute assurance and might not even mean a very high level of assurance, but it is enough, for all practical purposes, to make senior executives comfortable with signing the declaration. What is reasonable depends on many factors, including the executive, the organizational culture, and the resources required to increase the level of assurance.

Remediation: A process undertaken by an operator's management to

- correct control deficiencies identified by the operator during the evaluation of controls and
- correct deficiencies identified by the AER.

Reporting theme: A measurement and/or reporting category that may encompass several business processes. All reporting themes are listed on Attachment A of the EPAP declaration. For each reporting theme, operators are required to develop, operate, evaluate, and remediate, if required, controls that manage the risk of noncompliance to the associated AER requirements.

Senior executive: The person within the operator's management who holds provincial authority to direct resources to execute and measure progress of

- the evaluations of controls, and
- remediation of deficiencies.